



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO**

**William A. Hamp III, Trustee, for William A. Hamp III Revocable Trust
FOR
Eastern Clearing, Inc.
VPDES Permit No. VAG40
Registration No. VAG406311**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and William A. Hamp III, Trustee for the William A. Hamp III Revocable Trust regarding the Eastern Clearing, Inc. facility for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.

3. "cfu/yr" means colony forming units per year.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.
7. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. "DMR" means Discharge Monitoring Report.
9. "Eastern Clearing" means William A. Hamp III, Trustee, for the William A. Hamp III Revocable Trust. William A. Hamp III, Trustee is a "person" within the meaning of Va. Code § 62.1-44.3.
10. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
11. "Facility" or "STP" means the Eastern Clearing, Inc. sewage treatment plant, located at 6006 Bealeton Road, in Fauquier County, Virginia, owned by Eastern Clearing, from which discharges of treated sewage occur.
12. "mg/L" means milligrams per liter.
13. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
14. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
15. "O&M" means operations and maintenance.
16. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.

17. "Permit" means VPDES Permit No. VAG40, the VPDES General Permit For Domestic Sewage Discharges Of Less Than or Equal to 1,000 Gallons Per Day, which was issued under the State Water Control Law and the Regulation on August 2, 2016 and which expired August 1, 2021.
18. "Pollutant" means any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to pollution. 9 VAC 25-210-10.
19. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3; 9 VAC 25-210-10.
20. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
21. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
22. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
23. "S.U." means Standard Units.
24. "TMDL" means Total Maximum Daily Load.
25. "TRC" means Total Residual Chlorine.
26. "TSS" means Total Suspended Solids.
27. "Va. Code" means the Code of Virginia (1950), as amended.
28. "VAC" means the Virginia Administrative Code.
29. "VPDES" means Virginia Pollutant Discharge Elimination System.

30. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
31. "WLA" means Waste Load Allocation.

SECTION C: Findings of Fact and Conclusions of Law

1. Eastern Clearing owns the STP, and the Permit authorized Eastern Clearing to discharge treated domestic sewage from the STP to an unnamed tributary to Marsh Run, in strict compliance with terms and conditions of the Permit.
2. The unnamed tributary of Marsh Run is located in the Rappahannock River Watershed. Based on DEQ's 305(b) report, the unnamed tributary to Marsh Run has been neither monitored nor assessed. Marsh Run is located approximately 0.7 mile downstream, and this segment of Marsh Run is considered fulling supporting for the aquatic life use based on conventional parameter data; however, an observed effect for dissolved oxygen is noted. The wildlife and fish consumption uses were not assessed. The recreation use is assessed as impaired based on *E. coli* monitoring data; this impairment is included as part of the downstream Upper Rappahannock River Watershed bacteria TMDL, and a bacteria TMDL Implementation Plan for the Marsh Run watershed is complete. As approved by EPA on January 23, 2008, this Facility has a WLA of 2.68E+09 cfu/yr for fecal coliform bacteria and a WLA of 1.69E+09 cfu/yr for *E. Coli*. At approximately 1.6 miles downstream from this facility, Marsh Run is impaired for bacteria and for the aquatic life use based on benthic macroinvertebrate bioassessment.
3. NRO has not received documentation from Eastern Clearing to demonstrate that it performed effluent discharge monitoring at the Facility for the September 1, 2019, through August 31, 2020, monitoring period and DEQ did not receive a DMR submission for the monitoring period.
4. The DMRs submitted to DEQ for the September 1, 2016, through August 31, 2017, monitoring period and for the September 1, 2019, through August 31, 2020, monitoring period were submitted to DEQ late as follows:
 - a. The DMR due by September 10, 2017, was received by DEQ on October 24, 2017;
 - b. the DMR due by September 10, 2019, was received on September 30, 2021.
5. In submitting its DMRs, as required by the Permit, Eastern Clearing has indicated that it exceeded discharge limitations contained in Part I.A.1 of the Permit as follows:
 - a. Reported a TRC concentration of 0.53 mg/L compared to a permitted minimum limit of 1.0 mg/L for the September 1, 2016, through August 31, 2017, monitoring period.

- b. Reported a TSS concentration of 47 mg/L compared to a permitted limit of 30 mg/L for the September 1, 2016, through August 31, 2017, monitoring period.
 - c. Reported a TSS concentration of 153 mg/L compared to a permitted limit of 30 mg/L for the September 1, 2017, through August 31, 2018, monitoring period.
 - d. Reported a pH concentration of 4.83 S.U. compared to a minimum permit limit of 6.0 S.U. for the September 1, 2017, through August 31, 2018, monitoring period.
 - e. Reported a TRC concentration of 0.47 mg/L compared to a permitted minimum limit of 1.0 mg/L for the September 1, 2017, through August 31, 2018, monitoring period.
 - f. Reported a pH concentration of 4.67 S.U. compared to a minimum permit limit of 6.0 S.U. for the September 1, 2018, through August 31, 2019, monitoring period.
 - g. Reported a TRC concentration of 0.48 mg/L compared to a permitted minimum limit of 1.0 mg/L for the September 1, 2018, through August 31, 2019, monitoring period.
6. Parts I.A.1 and I.A.2 of the Permit require Eastern Clearing to conduct monitoring of wastewater discharges from the Facility for the presence of pollutants of concern once per annual monitoring period, and to submit the results to DEQ on a DMR no later than the 10th of September following each monitoring period.
7. Eastern Clearing failed to maintain, and submit to DEQ, a maintenance log for the September 1, 2017, through August 31, 2018, monitoring period and for the September 1, 2019, through August 31, 2020, monitoring period.
8. Part I.D.2.b.(4) of the Permit states: "The permittee shall keep a log of all maintenance performed on the treatment works including, but not limited to, the following: (a) The date and amount of disinfection chemicals added to the chlorinator. (b) If dechlorination is used, the date and amount of any dechlorination chemicals that are added. (c) The date and time of equipment failure and the date and time the equipment was restored to service. (d) The date and approximate volume of sludge removed. (e) Dated receipts for chemicals purchased, equipment purchased, and maintenance performed."
9. Part I.A.2 of the Permit requires Eastern Clearing to submit a copy of the maintenance log required by Part I.D.2.b.(4) of the Permit each year when submitting the annual DMR to DEQ.
10. Eastern Clearing submitted a registration statement to DEQ on August 31, 2021, to apply for permit coverage renewal under VPDES Permit No. VAG40. The Permit expired August 1, 2021, and was not administratively continued by DEQ.

11. Part II.M.1 of the Permit requires Eastern Clearing to submit a registration statement to apply for permit coverage renewal at least 60 days before the expiration date of the Permit. DEQ notified Eastern Clearing on June 25, 2021, that a registration statement to apply for permit coverage renewal must be submitted to DEQ by July 25, 2021.
12. The Regulations, at 9VAC25-110-80, require Eastern Clearing to comply with the requirements of the Permit as an owner whose registration statement has been accepted by the Board.
13. Va. Code § 62.1-44.5 states that: “[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances.”
14. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
15. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a “certificate” under the statute.
16. The Department has issued no permits or certificates to Eastern Clearing for the Facility other than VPDES Permit Registration No. VAG406311.
17. The unnamed tributary of Marsh Run is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
18. DEQ NRO issued WLs and NOVs to Eastern Clearing for the noncompliance described above as follows:
 - a. WL No. W2018-10-N-1019 dated October 22, 2018;
 - b. WL No. W2019-10-N-1030 dated October 28, 2019;
 - c. WL No. W2020-05-N-1003 dated May 19, 2020;
 - d. NOV No. W2020-10-N-0012 dated October 28, 2020; and
 - e. NOV No. W2021-10-N-0004 dated October 15, 2021.
19. Based on the submitted DMRs, WLs and NOVs issued by DEQ to Eastern Clearing and related correspondence between DEQ and representatives of Eastern Clearing, the Board concludes that Eastern Clearing has violated 9 VAC 25-31-50, 9 VAC 25-110-80, and Parts I.A.1, I.A.2, I.D.2.b.(4), and II.M.1 of the Permit, as described above.
20. In order for Eastern Clearing to return to compliance, DEQ staff and representatives of Eastern Clearing have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Eastern Clearing, and Eastern Clearing agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$2,618.75** in settlement of the violations cited in this Order. The civil charge shall be paid in accordance with the following schedule:

Due Date	Amount Due
Within 30 days of execution of Order	\$873 or balance
Within 120 days of execution of Order	\$873 or balance
Within 210 days of execution of Order	\$872.75 or balance

If the Department fails to receive a civil charge payment pursuant to the schedule described above, the payment shall be deemed late. If any payment is late by 30 days or more, the entire remaining balance of the civil charge shall become immediately due and owing under this Order, and the Department may demand in writing full payment by Eastern Clearing. Within 15 days of receipt of such letter, Eastern Clearing shall pay the remaining balance of the civil charge. Any acceptance by the Department of a late payment or of any payment of less than the remaining balance shall not act as a waiver of the acceleration of the remaining balance under this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

The Permittee shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Eastern Clearing shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Eastern Clearing for good cause shown by Eastern Clearing, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in WL No. W2018-10-N-1019 dated October 22, 2018, WL No. W2019-10-N-1030 dated October 28, 2019, WL No. W2020-05-N-1003 dated May 19, 2020, NOV No. W2020-10-N-0012 dated October 28, 2020, and NOV No. W2021-10-N-0004 dated October 15, 2021. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Eastern Clearing admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Eastern Clearing consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Eastern Clearing declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Eastern Clearing to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Eastern Clearing shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Eastern Clearing shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Eastern Clearing shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Eastern Clearing. Nevertheless, Eastern Clearing agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Eastern Clearing has completed all of the requirements of the Order;
 - b. Eastern Clearing petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Eastern Clearing.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Eastern Clearing from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

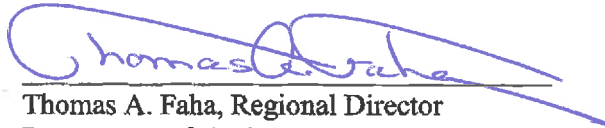
12. Any plans, reports, schedules or specifications attached hereto or submitted by Eastern Clearing and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Eastern Clearing certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this

Order and to execute and legally bind Eastern Clearing to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Eastern Clearing.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Eastern Clearing voluntarily agrees to the issuance of this Order.

And it is so ORDERED this ^{10th} ~~11~~ day of ~~April~~ ^{June}, 2022.


Thomas A. Faha, Regional Director
Department of Environmental Quality

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Consent Order

William A. Hamp III Revocable Trust / Eastern Clearing, Inc.; VPDES Permit Registration No. VAG406311
Page 11 of 12

The William A. Hamp III Trust voluntarily agrees to the issuance of this Order.

Date: 4-11-22 By: _____

(Person)

(Title)

William A. Hamp III Trustee

Commonwealth of Virginia

City/County of Prince William

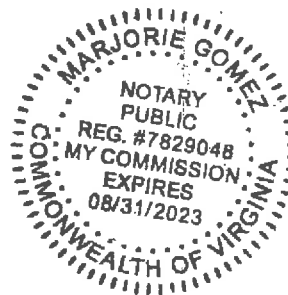
The foregoing document was signed and acknowledged before me this 11 day of April, 2022, by Karen Coleman who is Trustee of the William A. Hamp III Revocable Trust, on behalf of the Trust.

Marjorie Gomez
Notary Public

7829048
Registration No.

My commission expires: 08/31/2023

Notary seal:



APPENDIX A

SCHEDULE OF COMPLIANCE

Eastern Clearing shall:

1. Within 30 days of execution of this Order, submit to DEQ a DMR for the September 1, 2019 through August 31, 2020 monitoring period.
2. By September 10, 2022, complete the discharge monitoring required by the permit and submit to DEQ a DMR and maintenance log for the September 1, 2021, through August 31, 2022, monitoring period.
3. The DMRs shall be submitted in hardcopy with an original wet signature. Submission via email will not be accepted. An "X" shall be entered in place of data values to report instances where monitoring data was not collected or where collected data is deemed invalid for reporting to DEQ.
4. Unless otherwise specified in this Order, Eastern Clearing shall submit all requirements of Appendix A of this Order to:

Virginia Department of Environmental Quality
Northern Regional Office
Attention: Enforcement
13901 Crown Court
Woodbridge, VA 22193